

**TENNESSEE
HIGHER EDUCATION COMMISSION
TITLE VI REPORT
JUNE 2007**



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PHIL BREDESEN
Governor

June 29, 2007

John G. Morgan
Comptroller of the Treasury
State Capitol
Nashville, TN 37243

Comptroller Morgan:

I am filing with you today the Tennessee Higher Education Commission's 2007 Title VI Implementation Plan Update and Compliance Report. As you well know, this plan has been prepared pursuant to the requirements of Tennessee Code Annotated §4-21-901. In the plan, we have clearly stated the Commission's firm commitment to the enforcement of all discrimination laws and the commitment of the Commission and staff in compliance with the provisions of Title VI, including proper compliance reporting.

Again this year, this document has undergone a thorough review and revision of the plan utilizing prior guidance provided by Mr. John Birdsong, Executive Director of the Tennessee Title VI Compliance Commission. Included in the plan are long-range goals and major objectives to meet those goals. I look forward to seeing how these goals and objectives, along with other new plan provisions will enhance our knowledge of and compliance with Title VI.

Please feel free to contact me if you have any further questions regarding our plan.

Sincerely,

Richard G. Rhoda
Executive Director

cc: Representative Tommie Brown, Chairperson
Black Caucus Title VI Implementation Plan Committee
Mr. John Birdsong, Executive Director
Tennessee Title VI Compliance Commission

“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.” President John F. Kennedy, in his message calling for the enactment of Title VI in 1963.

OVERVIEW OF THE TENNESSEE HIGHER EDUCATION COMMISSION’S TITLE VI ENFORCEMENT PROGRAM

OVERVIEW OF THE TENNESSEE HIGHER EDUCATION COMMISSION

The Tennessee Higher Education Commission was created in 1967 for the purpose of achieving cooperation and unity in higher education. The coordination function grew out of a nationwide trend by governors and legislators to promote planned growth, equitable funding, and accountability among the state’s colleges and universities.

Since that time the Commission has created funding formulae, funding initiatives based on performance, legislative benchmarks, master plans, and criteria for new academic programs. The Commission believes strongly in working in a collaborative effort with the two public governing boards, and the independent sector to communicate clearly and frequently with various and diverse constituency groups. The Commission currently . . .

- recommends a budget for a statewide system that is a billion dollar enterprise;
- is engaged in master planning with a central focus on increasing educational attainment, sharpening institutional missions, and expanding the use of technology; and
- answers questions regarding accountability measures on a daily basis.

The Commission is committed to the principles of equity, excellence, accessibility, and accountability and strives to coordinate all of Tennessee higher education according to those principles. For a more detailed listing of the Commission’s duties and responsibilities is included as an appendix to this report (*Appendix I*).

The Commission is composed of thirteen voting members and two non-voting members (*Appendix II*). Specifically, there are nine voting lay members appointed by the Governor for six-year terms, each representing a congressional district of the state. The other voting members include the three constitutional officers, (Comptroller of the Treasury, Secretary of State, and State Treasurer) and one of the two student members. The two student members, one from each of the two systems, Tennessee Board of Regents and the University of Tennessee, are appointed by the Governor and serve staggered two-year terms. The student serving in the second year of his/her term is vested with voting authority. Finally, the Executive Director of the State Board of Education serves as a non-voting, ex-officio member.

The Tennessee Higher Education Commission members and staff take the responsibility of ensuring compliance with Title VI as well as other programs to prevent discrimination of any type. The Commission has implemented several new initiatives over the last year and will implement additional ones in the coming year to meet this responsibility.

The Commission staff is charged with the day to day operation of the responsibilities. The staff is made up of a diverse racial mix. Specifically, of the 51 employees, 20 are African-American, 28 are white and there are three who would be classified as “other”. This can be further broken down by EEO category:

- EEO 1: Five African-Americans; 16 Caucasians; One Other.
- EEO 2: Eleven African-Americans; 10 Caucasians; Two Other.
- EEO 6: Four African-Americans; Two Caucasian.

(Appendix II)

The Commission addresses Title VI compliance as an agenda item on each of its Summer meetings. To supplement that activity, the Commission this past year developed and implemented a new policy to specifically affirm its commitment in this area.

Period Covered by the *Title VI Implementation Plan Update and Compliance Report*

This implementation plan update for compliance with Title VI of the Civil Rights Act of 1964, covers the period July 1, 2006 - June 30, 2007. The programs and activities outlined in the report are included within the scope of the implementation plan update. The plan update was developed by the Commission’s Title VI Coordinator in cooperation with resource persons and representatives from each of the Commission’s program areas. This plan has been approved by the Executive Director of the Commission.

PROGRAM COVERAGE

The Higher Education Commission administers three federal programs in Tennessee, which are described below:

The **Improving Teacher Quality Grant Program** (formerly known as the Dwight D. Eisenhower Professional Development Program) is a federally funded program that provides grants to the state’s public and private higher education institutions and non-profit organizations for the purpose of providing research-based professional development for K-12 teachers, paraprofessionals and principals. Institutions use grant funds to assemble project teams who work across disciplines and have access to the most recent research in relevant content areas, curriculum reform and pedagogical strategies. The program has been expanded from the original purpose of aiding Mathematics and Science to complement requirements under *No Child Left Behind Act of 2001*, so that eligible subject areas include Mathematics, Science, English/Language Arts, Social Studies, Foreign Languages (including English as a Second Language) and related Arts. Additionally, beginning with the FY 2005-2006 awards projects

will be required to partner with a “high-need” LEA, as that term is defined under *No Child Left Behind Act of 2001*.

There were 19 projects funded for 2005-2006 totaling \$1,325,866.11

Request for Proposals

Annually, the Commission issues a Request for Proposals (RFP) to public and private higher education institutions and not-for-profit entities that have a background related to teacher professional development, inviting them to compete for these federal funds. The 2006-2007 RFP was mailed to the presidents and chancellors, deans of Arts and Sciences and deans of Education, previously funded project directors, and others who requested a copy.

Additionally, faculty and administrators at historically Black colleges and universities were contacted about the program and encouraged to submit proposals.

The RFP includes a requirement that each successful project must include a plan to recruit minorities for the project. Additionally, the RFP includes a statement of assurance of compliance with Title VI requirements (*Appendix III*) that must be signed by all grantees prior to any funds being distributed.

The **Veterans Education Division** of the Commission is the State Approving Agency (SAA) funded by the U.S. Department of Veterans Affairs to approve and monitor all educational institutions receiving federal funds for education of veterans based on federal guidelines. The SAA is under Title 38 U.S.C. as a separate agency responsible by contract to the U.S. Department of Veterans Affairs.

Veterans Affairs regulations require that all participants (schools, business, etc.) sign an acknowledgement of and agree to adhere to the policies referred to under the Title VI enforcement form, which affirms that they will not discriminate based on race, color or national origin (*Appendix III*). A school will not be approved for veterans training unless this form has been signed. An institution currently approved for veterans training that fails to comply with Title VI procedure will be dropped from the veterans program. During the 2006-2007 fiscal year, 232 institutions and 28 apprenticeship on-the-job training programs were approved to provide veterans training in Tennessee.

Each institution approved for the training of veterans must have an EEO statement and guidelines in place at all times. Commission staff reviews these guidelines and makes sure they are in place. Staff also reviews and investigates claims of discrimination made by students.

The total budget for Veterans Affairs for the 2006-2007 fiscal year was \$257,300. It should be noted, however, that the Commission is not involved in the distribution of G.I. Bill funds. The U.S. Department of Veterans Affairs notifies veterans of their eligibility and students make application to and receive benefits directly from the federal office.

The **Workforce Investment Division** of the Commission implements a portion of the Workforce Investment Act of 1998 (WIA), which is a federal program that provides training that will assist

the unemployed and underemployed to enter or re-enter the workforce in higher wage jobs. This office is charged with the requirement to implement and maintain the Eligible Provider's List for the State of Tennessee. This involves monitoring and keeping files on an excess of 2,600 programs offered by approximately 150 providers on the State's Eligible Providers List.

The Commission also produces an annual report as an extension of the agency's responsibility to evaluate all WIA providers to determine their eligibility to be included on the above-mentioned list of training providers. The report provides a performance assessment of completion and job placement rates for all WIA certified training providers in the state of Tennessee. The report includes a statewide analysis of the federally mandated performance data and summarizes the performance data for each Local Workforce Investment Area as well as for each certified training provider.

No federal or state funds flow through the Commission to state training providers, WIA participants, or the state's Department of Labor.

GEAR UP Tennessee is a program of the Tennessee Higher Education Commission funded through a grant from the U. S. Department of Education. The goal of GEAR UP TN is to increase high school graduation and college-going rates for low-income and underserved students. From July 1, 2006, through August 30, 2011, GEAR UP TN will serve an estimated 6,000 students per year in 9 counties and 47 schools.

As a federally funded program and a program of the State of Tennessee, GEAR UP TN will comply with Title VI of the Civil Rights Act and will gather and analyze data to assure compliance. As recipients of federal funds, the nine school districts also have Title VI policies and monitoring procedures in place, and GEAR UP TN will ask to receive those policies and procedures from the districts.

ORGANIZATION/CIVIL RIGHTS COORDINATOR

The ultimate responsibility for enforcing and complying with the provisions of Title VI and this report is vested in the Executive Director of the Tennessee Higher Education Commission. The Executive Director oversees all policy and hiring for the agency. The individual responsible for developing, reporting and enforcing Title VI guidelines is the Executive Director, Dr. Richard Rhoda. Dr. Rhoda can be contacted at (615) 741-3605 or by e-mail at Richard.Rhoda@state.tn.us.

As the Title VI coordinator, Dr. Rhoda is charged with developing the Commission's Title VI implementation plan and plan updates and provides overall direction and leadership to the Commission's Title VI compliance activities, including professional development. There have been no Title VI complaints filed with the Commission in 2006-2007. If any complaints were filed, Dr. Rhoda would investigate and respond to such complaints and consult with appropriate staff.

CIVIL RIGHTS POLICY/GUIDELINES

As a recipient of federal education funds, the Commission affirms its intention to comply with Title VI of the Civil Rights Act of 1964. Title VI states:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

The Tennessee Higher Education Commission prohibits discrimination in any manner related to institutions, non-profit organizations or program participants receiving services or benefits under federal or state programs. This information is disseminated to employees through items posted in each break room and copy/office supply room, as well as through occasional training opportunities regarding Title VI. This is also included in all RFP documents that are issued by this office. Successful project directors must attend a project directors meeting where compliance with Title VI is reinforced.

The Tennessee Higher Education Commission reaffirms its policies and commitment to afford all individuals the same opportunity to participate in federally financially assisted programs in compliance with Title VI of the Civil Rights Act of 1964.

DEFINITIONS

Assurance - A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs with civil rights laws and regulations.

Beneficiaries - Those persons to whom assistance, services, or benefits are ultimately provided. The beneficiaries assisted by the Commission include public and private postsecondary institution students and teachers.

Compliance - The fulfillment of the requirement of Title VI, other applicable laws, implementing regulations, and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color or national origin

Complaint - A verbal or written allegation of discrimination which indicates that any federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups or persons because of race, color or national origin.

Conciliatory Agreement - A voluntary agreement between a federal agency and the state and a sub recipient that provides for corrective action to be taken by a recipient to eliminate discrimination in any program receiving federal assistance.

Contractor - A person or entity that agrees to perform services at a specified price.

Civil Rights Compliance Reviews - Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulation. Compliance reviews determine compliance and noncompliance in the delivery of benefits and services in federally assisted programs. They identify programs such as denial of full benefits, barriers to participation, difference in treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews may be conducted on-site or through desk audits.

Discrimination - To make any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.

Federal Assistance - Any funding, property, or aid provided for the purpose of assisting a beneficiary.

High-need LEA - an LEA:

- (A) (i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or
- (ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
- (B) (i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or
- (ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Minority - A person or groups of persons differing from others in some characteristics and often subjected to differential treatment on the basis of race, color, or national origin.

Noncompliance - Failure or refusal to comply with Title VI of the Civil Rights Acts of 1964, other applicable civil rights laws, and implementing departmental regulations.

Primary Recipient: Any recipient authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

Public Notification - Process of publicizing information on the availability of programs, services and benefits to minorities and statements of nondiscrimination. This is attained through use of newspapers, newsletters, periodicals, radio and television, community organizations, and grassroots and special needs directories, brochures, and pamphlets.

Racially Hostile Environment: Harassing conduct (for example, physical, verbal, graphic, or written) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient of federal funds.

Recipient: Any state, political subdivision of any state, or instrumentality of any state or political subdivision, any public or private agency, institution, or organization, or other entity, or

any individual, in any state, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

Request for Proposals – The document that solicits competitive grant proposals from higher education and non-profit institutions.

STAFF AND BUDGET RESOURCES/CIVIL RIGHTS TRAINING

Dr. Rhoda is designated the Title VI coordinator and will execute all of the duties and responsibilities of the position, including participation in meetings of the Tennessee Title VI Compliance Commission and Governor's Office of Diversity Business Opportunities. In addition, during the coming year Dr. Rhoda will seek out additional training opportunities.

In addition to the training received by Title VI coordinator, the Commission provides mandatory workshops for grant project directors. Mr. John Birdsong, Executive Director of the Tennessee Title VI Compliance Commission has been able to attend many of these meetings to make a presentation to the project directors on Title VI compliance.

DISCRIMINATORY PRACTICES

There are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunity of minorities to gain equal access to services and programs. Among other things, in operating a federally assisted program, a sub-recipient cannot, on the basis of race, color, or national origin, either directly or through contractual means:

- Be refused an award for a grant administered by the Commission;
- Deny any qualified applicant participation in a program funded with a grant;
- Provide an individual instruction or participation at a level of service or benefit in a manner different from others under the same program;
- Subject a participant to segregation in any manner related to the receipt of services or benefits under the program;
- Subject a project participant to separate treatment in any manner related to receiving services or benefits under the program;
- Restrict an individual in any way in the receipt of any advantage or privilege enjoyed by others under the program;
- Require different standards or conditions as prerequisites for accepting an individual into a program;
- Use criteria or methods of administration which (a) have the effect of subjecting individuals to discrimination or (b) operate to defeat or substantially impair the accomplishment of the objectives of the program;
- Permit discriminatory activity in a facility built in whole or in part with federal funds;
- Fail to provide service or information in a language other than English when a significant number of potential or actual beneficiaries have limited English speaking ability;

- Fail to advise the population eligible to be served or benefited by the program of the existence of the program;
- Locate a facility in any way which would limit or impede access to a federally funded service or benefit; or
- Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

FEDERAL ASSISTANCE/GUIDANCE

The Commission works with the U.S. Department of Education, Department of Labor, and the Veterans' Administration to implement the various programs pursuant to the respective department's regulations and in developing policy guidelines for federal programs.

The Commission utilizes the Department of Education's guidelines in selecting proposals from institutions of higher education and non-profit organizations for use in the **Improving Teacher Quality Grant Program**. Also annual meetings are held in Washington, D.C. for state agency for higher education (SAHE) coordinators to receive technical assistance from Department of Education personnel and to query with colleagues from other states about their experiences implementing the program.

In the **Veterans Education Division** compliance surveys of all federal regulations are conducted by the U.S. Department of Veterans Affairs. In the event the U.S. Department of Veterans Affairs finds an institution to be in non-compliance, the Tennessee Higher Education Commission completes a follow-up investigation of the matter. The Commission's Veterans Education office works closely with personnel in both the Nashville and Atlanta offices of the Department of Veterans Affairs to ensure compliance in all aspects of the work. Additionally, there are professional and educational meetings held twice a year where state officials receive technical assistance from the Department of Veterans Affairs that is regularly attended by staff.

The Commission's **Workforce Investment Division** was charged with developing some policies and guidelines in alignment with federal legislation. However, primary oversight of this program lies with the state's Department of Labor and Workforce Development. Commission staff works closely with their counterparts in the L&WD who coordinates training and assistance from the Department of Labor.

To ensure compliance with Title VI of the Civil Rights Act at the student level, **GEAR UP TN** will track demographic information on students served with project funds. Staff members will record student participation in all GEAR UP activities and records will be entered into a master database. Student activity records will be matched with their specific demographic record in order to determine ethnicity. Overall participation by ethnicity will be monitored to ensure appropriate services are delivered.

GEAR UP TN staff hires will also be tracked to ensure equal opportunity and compliance with Title VI. GEAR UP TN will receive a copy of district hiring practices, information on the

district hiring pools, and ethnicity of the final hires. Staff and hiring data will be maintained in a separate database.

APPROACH TO MAJOR CIVIL RIGHTS FUNCTIONS

STATEMENT OF ASSURANCES

For entities that enter into grants and contracts with the Commission (*Appendix IV*), the following assurance statement is included in the grant contract document:

Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant or in the employment practices of the Grantee on the grounds of disability, age, **race, color**, religion, sex, **national origin**, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. (Emphasis added.)

Signing of the grant contract with this language is a precondition to receiving funds. If the entity does not sign, funds will not be released. Beginning with grants awarded for 2004-05, the Commission will require the grant project directors to sign an assurance statement for each federal program.

Additionally, as noted above, successful project directors for an Improving Teacher Quality Grant is required to sign a statement of assurance that they will fully comply with the provisions of Title VI in the administration of its grant.

PUBLIC NOTIFICATION

The Tennessee Higher Education Commission holds public meetings at various times and locations throughout the year. The work of the Commission, its staff and committees are public record. All meetings are open to the public and publicized in accordance with the Tennessee Open Meetings Act. These public hearings concern such issues as funding of higher education, capital outlay and maintenance, and academic planning.

As a general rule, staff vacancies are filled after the positions are advertised in publications that will ensure a representative pool of applicants. In addition, efforts are made to network with African-American professionals and educators to assist in identifying potential applicants for the various positions.

The Request for Proposals (RFP) is the method of informing potential grant recipients of available federal and state funding. They are disseminated to public and private higher education institutions as well as non-profit organizations, if applicable. The Commission makes special

effort to provide notice to African-Americans and other racial and ethnic minorities of all program activities, as well as to institutions whose primary focus is to reach racial and ethnic minorities.

The Title VI guidelines are reinforced by mandatory attendance at the annual project directors' workshop which is designed to educate grant recipients regarding federal and state guidelines including the proper procedures for reporting Title VI complaints.

Posters/flyers are displayed in high traffic areas of the Commission offices which articulate examples of discrimination, the Commission's commitment to compliance of Title VI and contact information for personnel responsible for investigating complaints.

COMPLIANCE REVIEWS

Improving Teacher Quality Grant Program

Pre-Award Review

The Director for Academic Programs and Interagency Grants includes mandatory Title VI requirements in the RFP. Also, the staff recently instituted an updated evaluation feature that will provide information on whether previously funded institutions were found to have successfully satisfied Title VI compliance reviews or have pending Title VI complaints. Projects that have been found in non-compliance will not be considered for funding.

The Commission assembles a selection committee to recommend which proposals should be funded. Awards are based on the merit of the proposals which are evaluated using prior established criteria identified to enhance K-12 teachers' instructional abilities and principals' leadership skills. The selection committee includes representatives from the state's public and private higher education institutions, Board of Education and Department of Education. The 2006-2007 committee included seven African-Americans out of a total of 19 reviewers. (*Appendix V*).

Post Award Title VI Compliance

Procedures for conducting compliance reviews of funded grant projects under the Improving Teacher Quality Grant program include the following steps:

- Site visits to all grant programs during their first year conducted by program director;
- Site visits to second year grant programs, if (a) specifically requested by the Project Director or Principal Investigator or sponsoring agency and/or (b) a Title VI complaint was filed against the grant program during year one;
- Site visit will be made to all grant programs in their third year to the extent that they can be scheduled around visits to first year programs;
- Other site visits on an as needed basis with specific interest in any ITQ project in an odd year funding;
- Completion of Compliance Investigation Checklist;
- Survey of Project Director(s), which among other things identifies the number of minorities the project served and the number of external consultants that were employed by the project (*Appendix VI*).

- Review whether the grantee implemented the project's plan for recruiting minority participants;
- Technical assistance with any Title VI complaints or issues; and
- Mandatory final report submitted to program director 45 days after the grant ends.

Project Directors will submit in the final report on any Title VI complaint received during the funded grant period. In addition, the grant Project Director will submit in the final report an explanation of the results of the proposed minority recruitment plan. Unsatisfactory compliance review findings, failure to submit final reports, and pending discriminatory complaints can result in the withholding of the projects' final disbursement of grant funds.

Two examples of how discrimination might occur follow:

- Failure to notify all eligible institutions of the availability of funds; and
- Applicants receiving awards notify only certain teachers or schools in the targeted geographical areas of the fact that professional development activities will be conducted, knowing or having reason to believe that no minorities are among of that group.

Supervisory visits are conducted each year at approximately 90 percent of all institutions participating in the **Veterans Education** program. These visits include records' audits and facilities monitoring. Title VI compliance reviews are also completed by the U.S. Department of Veterans Affairs. The Director of Veterans Education for the Tennessee Higher Education Commission is responsible for investigating complaints of discrimination filed by veterans and acts as a liaison between the institution and the U.S. Department of Veterans Affairs.

Workforce Investment Act

The Manager of the WIA investigates complaints from students and personnel affiliated with institutions which are denied placement on the above-mentioned list of training providers. When necessary, a hearing will be scheduled and both the Tennessee Higher Education Commission and the Local Workforce Investment Board members will make a final decision. The Commission does not initiate inquiries on institutions due to the fact that no funds flow from the Commission to any of the institutions or program participants.

COMPLAINTS OF DISCRIMINATION

The Tennessee Higher Education Commission has adopted the following complaint procedures. All form letters or documents are included in Appendix VII.

Timeline for Filing

Any person alleging discrimination based on race, color, or national origin has a right to file a complaint within 180 days of the alleged discrimination.

Receipt of Complaints

To request a preliminary review by the Commission to determine whether it will investigate an allegation of noncompliance with Title VI, the complainant must complete the Commission's Discrimination Complaint Form or provide the information requested on the complaint form, and

Consent Form for Use of Personal Information for Complainant. The complainant must sign all forms.

Essential Elements of a Complaint

The complainant must provide the following information:

- Name, address, and telephone number of the person making the complaint;
- The location and name of the entity delivering the service;
- The nature of the incident that led the person filing the complaint to feel discrimination was a factor;
- Whether the discrimination was based on race, color, or national origin;
- Names, addresses, and phone numbers of people who may have witnessed the event or may have knowledge of the event; and
- The date or dates that the event or events the person filing the complaint believe were discriminatory.

Complaint Receipt and Reporting Process

The procedures listed below will be followed in processing Civil Rights complaints.

- Within fifteen days of receiving the complaint, Commission will send a letter to the complainant acknowledging receipt of the complaint. The Commission will advise the complainant that the Commission will conduct a preliminary review of the complaint and that he/she will be advised of the results of the preliminary review.
- The Commission's Title VI Coordinator will conduct a preliminary review of the complaint and will determine whether a potential violation of Title VI has occurred, whether the Commission has jurisdiction to investigate the complaint, and whether the Commission is the best entity to conduct the investigation. In the course of the investigation, the Title VI coordinator will work with the program administrator for the particular program involved in the complaint. If it is determined that the Commission is not the best entity to conduct the investigation, the Commission may refer the complaint to the U.S. Department of Education Office for Civil Rights, the Tennessee Department of Labor and Workforce Development or U.S. Department of Veterans Affairs, or another appropriate entity.
- While the Higher Education Commission does not have statutory responsibility for the operation of the two governing boards, the Executive Director will refer any complaint involving an institution of the University of Tennessee System or the Tennessee Board of Regents to the respective governing boards for review and resolution. In either case, the complainant will be apprised of the action taken.
- Within thirty days of the Commission's receipt of the complaint, the Commission will notify the complainant as to the results of the preliminary review of the complaint and whether or not the Commission will conduct an investigation.
- If the decision of the Commission is to conduct a complaint investigation, the Commission will send a letter of notice to the entity to be investigated.

- If the Commission accepts a complaint for investigation, the Commission will strive to complete the investigation within 180 days of the receipt of the complaint. The investigation will include interviews with persons who may have direct knowledge of the alleged discriminatory act(s), a review of pertinent documents and records, and any other legal investigative techniques deemed necessary to allow the Commission to reach a conclusion as to whether discrimination occurred.
- If appropriate, the Commission will coordinate with other agencies on matters of interdepartmental issues.
- If the investigation substantiates the allegations of the complainant or if other instances of noncompliance with Title VI of the Civil Rights Act of 1964 are found, the Commission will send a draft copy of the investigative report to the entity that has been the subject of the investigation. The Commission will request the entity to submit a written response to any findings or recommendations in the draft report.
- If the entity that is the subject of the complaint submits a written response which states that action will be taken to resolve the complaint, the Commission will issue a final investigative report that will include the response of the entity. The Commission investigator will schedule a follow-up review for an appropriate time-period to determine whether the complaint has been resolved.
- If the entity does not agree to resolve a substantiated complaint, the investigator will issue a final report with an opinion statement that the entity has not committed to resolving the complaint. The Commission's Title VI coordinator, in consultation with the Executive Director of the Commission, will make a determination as what further action the Commission will take to resolve the complaint.
- If the alleged discriminatory act(s) directly affected the complainant, a letter, containing a description of the allegations investigated, the scope of the investigation, the facts learned, and a closing statement summarizing the basis on which the determination was made, will be sent to the complainant. The complainant will be advised of his/her right to file a complaint with other applicable governmental entities if dissatisfied with the resolution of the complaint by the Commission.

DATA COLLECTION AND ANALYSIS

Each ITQ project director must report information regarding their respective projects. This data is compiled and utilized to identify trends of potential discriminatory practices and in evaluating project proposals in subsequent years. (*Appendix VI*)

MINORITY REPRESENTATION

As noted above, the Governor appoints all members of the **Tennessee Higher Education Commission** except the four ex-officio members (*Appendix I*). Pursuant to T.C.A. §49-7-204(a)(6) “at least one (1) of the appointive members shall be a member of the principal racial minority in the state.” Mr. A.C. Wharton, Mayor of Shelby County has been a member of the Commission for twenty years and served as its Chairman for three consecutive years.

The General Assembly created the **Committee on Postsecondary Educational Institutions** to assist the Commission staff with the oversight of the proprietary and many not-for-profit postsecondary institutions in the state. The statute, T.C.A. §49-7-207, authorizes the Commission to appoint eleven of the thirteen committee members (*Appendix V*). Two members sit by virtue of their position, the Executive Directors of the Tennessee Higher Education Commission, Dr. Richard Rhoda and the Tennessee Student Assistance Corporation, Dr. Robert Ruble. The 2006-2007 committee includes three appointed members that are from a racial and ethnic minority group. When vacancies occur on the committee the Commission staff seeks input from African-American professionals, such as Mayor Wharton, local African-American attorney Susan Jones, and educators for nominations.

There is not a set number of **Improving Teacher Quality Grant Program Selection Committee** members; however, five of the members are determined by position. These positions include:

- Math Consultant for the State Department of Education;
- Science Consultant for the State Department of Education;
- Improving Teacher Quality Grant Coordinator for the State Department of Education;
- Coordinator of Special Projects for the State Department of Education; and
- Director for Academic Programs and Interagency Grants (THEC).

The 2006-2007 selection committee included seven African-Americans out of a total of 19 committee members (*Appendix V*).

The **Minority Teacher Education Grant Advisory Committee** determines which entities will receive the grants under this program. The 2006-2007 advisory committee included seven African-Americans out of a total of 10 committee members (*Appendix V*).

Below is an analysis of minority participation on advisory bodies for which the Commission has the authority and/or responsibility for appointing or recommending members. One of the Commission’s goals and objectives is to ensure that minorities are adequately represented on advisory bodies.

Advisory Body	Total Members	Number of Minority Members	Percent of Total
Committee on Postsecondary Educational Institutions	13	3	33%
Improving Teacher Quality Grant Program Selection Committee	19	7	37%
Minority Teacher Education Grant Advisory Committee	10	7	70%
Total	43	16	37%

DOCUMENTATION OF INPUT IN THE DEVELOPMENT OF POLICY

Over the last several years, the Commission has submitted its Title VI Implementation Plan Update and Compliance Report for external review and also consulted with others. Past reviewers include Ms. Patricia Pierce, Director, Opportunity Development Center at Vanderbilt University and Dr. Sonya G. Smith, formerly Assistant Dean for Admissions and Lecturer in Law at Vanderbilt University School of Law. Additionally, Dr. May Alice Ridley, Director of Civil Rights for the Department of Education and Ms. Christy Ballard, General Counsel for the Department of Education were sought out for the purpose of seeking guidance as to other resources in the development of this plan, though neither have ever reviewed a Commission plan.

This plan continues to undergo change from year to year due to changing circumstances as well as input received from others. While not reviewed over the past year, this compliance report and implementation plan has undergone revision again this year, based on a reassessment of the input received in past years. For instance, the Commission received input from Karmon Simms-Coates with the U. S. Department of Education relative to Title VI compliance for our GEAR UP TN subrecipients.

This compliance report and implementation plan update was approved by the Executive Director of the Commission before being submitted to the Tennessee Title VI Compliance Commission and the Comptroller's Office.

COMPLIANCE REPORTING

The Commission will maintain the following records:

- Administrative records such as copies of assurances, public notification plans, press releases, and training materials;
- Data collection and participation records, documentation of analytical review procedures, and results of follow-up;
- Monitoring records, including working papers, reports, and corrective action plans; and

- All Title VI correspondence and reports received from and submitted to the federal government.

Compliance reports will be maintained by the Commission and forwarded to the appropriate state and federal agencies as may be requested or directed.

COORDINATION WITH OTHER AGENCIES

The Tennessee Higher Education Commission is the coordinating board for higher education in the state. The direct operation and governance of Tennessee's public colleges and universities reside with two governing boards, the Tennessee Board of Regents and the University of Tennessee Board of Trustees.

The Commission has not delegated any of its Title VI compliance responsibilities to any other agency. Subrecipients of federal funds and entities that receive grants from, or enter into contracts with the Commission are required to provide assurance they are in compliance with Title VI. The Commission will coordinate its Title VI compliance activities with other federal, state, and local agencies to the extent it is possible and effective to do so.

EFFECTING COMPLIANCE

The Commission has adopted the following policies and procedures which will be followed when, through complaint investigations or compliance reviews, it is determined that a Title VI violation has occurred. Efforts will be made to the fullest extent practicable to obtain voluntary compliance before a case is referred to the U.S. Department of Education Office for Civil Rights for possible refusal, suspension, or termination of federal financial assistance.

Procedures for Achieving Voluntary Compliance

- In cases where a complaint investigation or compliance review results in a finding of noncompliance, the Commission will notify the subrecipient of federal/state funds of the apparent noncompliance.
- The notice will clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply.
- The Commission will record the date the recipient received notice, and will note and record the last day afforded the recipient for voluntary compliance before initiating an administrative process to terminate assistance.
- The sub-grantee of federal funds may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will be involved in the discussion process.
- The Executive Director of the Commission, or designee, will approve the recipient's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the act. The plan will be put in writing. Failure of voluntary efforts will result in the implementation of an administrative process, which could result in termination or suspension of assistance.

Termination or Suspension of Assistance

If the Commission cannot obtain compliance through voluntary means, the Commission will notify the U.S. Department of Education Office for Civil Rights (USDE/OCR) and will request the assistance of the USDE/OCR to obtain compliance, which may involve termination or suspension of assistance.

If termination of assistance is considered due to noncompliance with Title VI, the alleged problems are delineated to the award recipient. Opportunity is provided for informal resolution. If these efforts fail, formal sanctions up to and including termination can be pursued.

STATEMENTS OF ASSURANCE

Financial assistance, the authority to operate and/or federal disbursements are conditional on the applicant or recipient providing assurance that the program, facility or institution to receive benefit will be operated without discrimination. This is acknowledged by the signed statement of assurance and/or the grant contract document with language that specifically prohibits Title VI violations.

GOALS AND OBJECTIVES**LONG RANGE GOALS**

- Ensure that successful project grants are achieving optimal utilization of the grant funds provided by the Commission.
- Ensure that all Commission opportunities and programs that are subject to the provisions of Title VI are conducted in a manner that meets the program's intent and requirements.

MAJOR OBJECTIVES

- Develop a matrix to ensure compliance with the ITQ requirement that neither partner expend in excess of 50 percent of the total grant.
- Develop an external evaluation document that will assist in a more accurate assessment of the effectiveness of the various ITQ grant projects.
- Develop a Title VI policy approved by the Commission.
- Provide training opportunities for Commission staff on Title VI issues.